



DEPARTMENT OF TRANSPORTATION

[4910-22-P]

Federal Highway Administration

423CFR Chapter I

[Docket No. FHWA-2016-0002]

RIN 2125-AF70

**Tribal Transportation Self-Governance Program; Negotiated Rulemaking
Proposed Committee Membership and First Meeting**

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of rulemaking committee meeting

SUMMARY: As required by the Negotiated Rulemaking Act, the Secretary of Transportation has selected the proposed members of a committee to develop proposed rules for the Tribal Transportation Self-Governance Program (TTSGP). Tribes in each of the 12 Bureau of Indian Affairs (BIA) Regions, as well as national and regional tribal organizations were invited to nominate a primary and alternate representative to serve on the committee. After considering the nominations received, the Secretary proposes to appoint the persons named in this document as committee members. Tribes, tribal organizations, and individual tribal members who believe that their interests will not be adequately represented by the persons identified in this document may submit comments on the proposed selection, apply for membership on the committee, or submit other nominations. Additionally, the Agency announces that the first meeting of the TTSGP committee will be held August 16 - 18, 2016. The meeting is open to the public.

DATES: Comments on the proposed committee membership to this negotiated

rulemaking committee must be received no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION].

The meeting will be held on August 16 - 18, 2016, from 8 a.m. to 5 p.m., ET.

ADDRESSES: The meeting will be held at the Eastern Federal Lands Highway Division, Loudoun Tech Center, 21400 Ridgetop Circle, Sterling, VA 20166-6511. Attendance is open to the public up to the room's capacity. Copies of the TTSPG Committee materials and an agenda will be made available in advance of the meeting at <https://flh.fhwa.dot.gov/programs/ttp/>.

Send nominations and comments to Mr. Robert Sparrow, Designated Federal Official, Federal Highway Administration, Room E61-314, 1200 New Jersey Ave, SE, Washington, DC 20590. Or email to: FHWA-TTSGP@dot.gov.

Nominations and comments received by FHWA will be available for inspection at the address listed above from 9:00 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert W. Sparrow, Designated Federal Official, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: (202) 366-9483 or at robert.sparrow@dot.gov. Vivian Philbin, Assistant Chief Counsel, 12300 West Dakota Avenue, Lakewood, CO 80228. Telephone: (720) 963-3445 or at vivian.philbin@dot.gov. Additional information may be posted on the FHWA Tribal Transportation Program Web site at <https://flh.fhwa.dot.gov/programs/ttp/> as it comes available.

SUPPLEMENTARY INFORMATION:

I. Background

As required by Section 1121 of the Fixing America's Surface Transportation (FAST) Act, the Secretary shall, pursuant to a negotiated rulemaking process, develop a Notice of Proposed Rulemaking (NPRM) that contains the regulations required to carry the TTSGP. Section 1121 also requires that in establishing this committee, the Secretary will (1) apply the procedures of negotiated rulemaking under subchapter III of chapter 5 of title 5 (the Negotiated Rulemaking Act) in a manner that reflects the unique government-to-government relationship between the Indian tribes and the United States and (2) select the tribal representatives for the committee from among elected officials of tribal governments (or their designated employees with authority to act on their behalf), acting in their official capacities. To the maximum extent possible, FHWA considered geographical location, size, and existing transportation and self-governance experience, in selecting tribal committee representatives.

The Secretary invites organizations and individuals to comment on the nominations in this document or nominate other persons for membership on the committee. The Secretary intends that the proposed committee (including any additional members selected) reflect balanced interests as follows:

- (1) Members of geographically diverse small, medium, and large Indian tribes;
- (2) Members of tribes identified as Self-Governance Tribes in transportation or other programs as well as from tribes whose tribes have existing Title 23 U.S.C. funding agreements with the Department; and

(3) Members of tribes with various levels and types of experience in the diverse concerns of transportation, management, and leadership.

On April 25, 2016 (81 FR 24158), FHWA announced its intent to establish a negotiated rulemaking committee to negotiate and develop proposed regulations to implement Section 1121 of the FAST Act and to solicit applications for nominations for membership on the TTSGP committee. A total of 33 nominations were received for tribal membership to the committee. This included multiple nominations from tribes located within 10 of the 12 BIA Regions. Only one nomination was received from tribes located within the BIA Midwest Region as well as the BIA Rocky Mountain Region. In addition, nominations and letters of support were received from national and regional tribal organizations.

The Secretary has selected 12 primary regional tribal representatives, 2 tribal representatives that received backing and support from national or regional tribal organization/committees, and 4 additional tribal representatives based on their experience and knowledge as well as to improve the overall diversity of the committee. In addition, the Secretary has selected 7 Federal representatives for the committee, bringing the total proposed committee membership to 25, which meets the requirements of Negotiated Rulemaking Act (5 U.S.C. 565). Five additional alternate representatives were also selected. Generally, tribal members selected to the committee as either representing a tribal organization or a Secretarial selection will also perform as a regional alternate if required. After careful review of all of the individuals nominated to be TTSGP committee members, the Secretary of

Transportation hereby proposes the following committee membership:

Federal Representatives

- Robert Sparrow, Designated Federal Official, FHWA, Washington, DC
- Vivian Philbin, Assistant Chief Counsel, FHWA, Lakewood, CO
- Basharat Siddiqi, Division Administrator, FHWA, Oklahoma City, OK
- Kenneth Martin, Deputy Assistant Secretary for Tribal Government Affairs, Office of the Secretary, USDOT, Washington, DC
- Elan Flippin, Tribal Transit Program Manager, FTA, Washington, DC
- (TBD), USDOT, Washington, DC
- LeRoy Gishi, Chief, BIA Division of Transportation, Washington, DC

Primary Tribal Representatives

- ALASKA REGION - Denise Michaels, Director of Transportation, Kawerak, Inc., Nome, AK
- EASTERN REGION - Wesley Woodruff, Facilities Division Director, Poarch Band of Creek Indians, Atmore, AL
- EASTERN OKLAHOMA REGION - Palmer S. Mosely V, Executive Officer of Self-Determination, The Chickasaw Nation, Ada, OK
- GREAT PLAINS REGION - Ron His Horse is Thunder, Transportation Director, Standing Rock Sioux Tribe, Ft. Yates, SD
- MIDWEST REGION – David Conner, Self-Governance Coordinator, Red Lake Band of Chippewa Indians, Red Lake, MN
- NAVAJO REGION - Darryl Bradley, Principal Civil Engineer, Navajo Nation,

Window Rock, AZ

- NORTHWEST REGION – Timothy Ballew II, Tribal Chairman, Lummi Nation, Bellingham, WA
- PACIFIC REGION - Michael Hostler, Transportation Director, Hoopa Valley Tribe, Hoopa, CA
- ROCKY MOUNTAIN REGION - John Smith, Transportation Director, Eastern Shoshone and Northern Arapaho Tribes' Joint Business Council on the Wind River Indian Reservation, Arapahoe, WY
- SOUTHERN PLAINS REGION - Beverly Edwina Butler Wolfe, Governor, Absentee Shawnee Tribe of Oklahoma, Shawnee, OK
- SOUTHWEST REGION - Joe Garcia, Head Councilman, Ohkay Owingeh Pueblo, Ohkay Owingeh, NM
- WESTERN REGION - Jennifer Lynn Jack, Roads Manager, Salt River Pima-Maricopa Indian Community, Scottsdale, AZ

Other Tribal Representatives

- Mickey Percy, Executive Director of Self-Governance, Choctaw Nation of Oklahoma, Tishomingo, OK, proposed by the DOI Self-Governance Workgroup
- Jody Clark, Director - Seneca Nation DOT, Seneca Nation, Salamanca, NY, proposed by United Southern and Eastern Tribes (USET). Will also act as the Alternate representative for the Eastern Region, if required.
- Gerald Hope, Transportation Director, Sitka Tribe of Alaska, Sitka, AK. Will also act as the Alternate representative for the Alaska Region, if required.

- Karen Woodard, Administrator - Realty, Planning, Construction Services and Facilities, Morongo Band of Mission Indians, Banning, CA. Will also act as the Alternate representative for the Pacific Region, if required.
- Elizabeth Kay Wallace Rhoads, Principal Chief - Sac and Fox Nation, Meeker, OK. Will also act as the Alternate representative for the Southern Plains Region, if required.
- Royce Gchachu, Transportation Director, Zuni Pueblo, Zuni, NM. Will also act as the Alternate representative for the Southwest Region, if required.

Alternate Tribal Representatives

- EASTERN OKLAHOMA REGION - Lindsay Earls, Legislative Counsel for Government Relations, The Cherokee Nation, Tahlequah, OK
- GREAT PLAINS REGION - David Kelly, Transportation Director, Oglala Sioux Tribe, Pine Ridge, SD
- NAVAJO REGION - Jonah Begay, GIS Supervisor, Navajo Nation, Window Rock, AZ
- NORTHWEST REGION - Mary Beth Frank-Clark, Transportation Planner, Nez Pierce Tribe, Lewiston, ID
- WESTERN REGION - Octavio Machado, Transit Manager, Ak-Chin Indian Community, Maricopa, AZ

If you believe that your interests will not be adequately represented by any person identified as being a member of the committee, you may apply or nominate another person for membership on the committee. Each application or nomination

must include:

- (1) The name of the nominee.
- (2) The tribal interest(s) to be represented by the nominee (based on the interests listed above).
- (3) Evidence that the applicant or nominee is authorized to represent parties related to the interest(s) the person proposed to represent.
- (4) The reasons that the proposed members of the committee identified in this document do not represent the interests of the person submitting the application or nomination.
- (5) Your name, address, telephone number, and the name of the tribe or tribal organization with which you are affiliated. To be considered, comments and nominations must be received by the close of business on [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER], at the location indicated in the "Addresses" section.

II. Meeting Participation

The meeting will be open to the public. Time has been set aside during each day of the meeting for members of the public to contribute to the discussion and provide oral comments.

The committee will dedicate a substantial amount of time at the first meeting to establishing the rules, procedures, and process of the committee, such as outlining the voting rights of the committee members and defining the meaning of “consensus.”

III. Submitting Written Comments

Members of the public may submit written comments on the topics to be considered during the meeting by August 1, 2016, to Federal Docket Management System (FDMS) Docket Number FHWA-2016-0002. If you submit a comment, please include the docket number for this document (FHWA-2016-0002). You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. The FHWA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FHWA can contact you if there are questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, put the docket number, FHWA-2016-0002, in the keyword box, and click “Search.” When the new screen appears, click on the “Comment Now!” button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8 1/2 by 11 inches, suitable for copying and electronic filing.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>. Insert the docket number, FHWA-2016-0002, in the keyword box, and click “Search.” Next, click the “Open Docket Folder” button and choose the document to review. If you do not have

access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. The DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at www.dot.gov/privacy.

IV. Future Committee Meetings and Rulemaking Calendar

Decisions with respect to future meetings will be made at the first meeting and from time to time thereafter. Notices of all future meetings will be shown on the FHWA TTP Web site at <https://flh.fhwa.dot.gov/programs/ttp/> at least 15 calendar days prior to each meeting. The FHWA has developed a provisional schedule of committee meetings, running through June 2017, which we plan to finalize with the committee during the first meeting. The FHWA intends to complete the negotiated rulemaking process for the proposed rule within the first half of 2017 and to publish a NPRM, followed by a Final Rule in 2018. After the conclusion of the committee meetings, the Agency will draft the NPRM, which is expected to take approximately 6–8 weeks, depending on the degree of consensus on the issues and the supporting data developed by the committee. The NPRM will then be reviewed by DOT’s Office of the Secretary and the Office of Management

and Budget (OMB). The Agency will then publish the NPRM for public comment. Following the close of the public comment period the Agency will evaluate and respond to public comments as it drafts a final rule, which will also undergo Departmental and OMB review. Although the time needed to address public comments to an NPRM that has been developed through a successful negotiated rulemaking process is typically shorter than for rules conducted through the ordinary informal notice and comment process, the Agency must nonetheless address substantive public comments in the final rule, in accordance with the Administrative Procedure Act. While the Agency cannot state with certainty the time required to complete the negotiated rulemaking process and notice and comment rulemaking, the target date for publication of an NPRM is September 2017.

Issued on: July 21, 2016

Gregory G. Nadeau,
Administrator,
Federal Highway Administration

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